

REMARKS - General

With respect to the examiner's Office Letter dated 28 January 2004 and the "Final" rejections of the claims therein, the applicant has filed a request for continued examination (RCE) for several reasons. First, telephone conferences were held on 1 July 2003 between the applicant and Examiner's Ware and Naff and on 14 July 2003 with Examiner Ware to discuss the subject application. As a result of these telephone conferences, it was the applicant's understanding that the prior rejections of the claims would be successfully traversed by making the revisions to the claims (and outlining the basis thereof) as set forth in the applicant's previous Amendment B filed on 24 July 2003. In particular, the specific changes to the claims and the basis for their allowance relative to the prior art as described in the 24 July 2003 amendment were a direct result of the telephone conferences with the Examiners. Noteworthy is that no written record or confirmation of the matters discussed during the 1 and 14 July 2003 telephone conferences was received by the applicant.

In November 2003, Examiner Ware contacted the applicant to advise that she had not received the 24 July 2003 amendment. On 14 November 2003, the applicant re-faxed the aforementioned amendment B to Examiner Ware. Based on the applicant's review of the "final" office letter dated 28 January 2004, it is the applicant's belief that the final rejections of the claims were a direct result of the time lapse between the July 2003 telephone conferences (and the amendment B submitted on 24 July 2003 as a result of these conferences) and the Examiner's receipt and review of the amendment B on or after 14 November 2003. In other words, perhaps due to no fault or intention of the Examiner, the time lapse between July and November 2003 combined with the lack of a formal written record of the matters and conclusions of the July 2003 telephone conferences were such that the Examiner was not able to recall the agreements previously reached concerning mutually acceptable revisions to (and supporting arguments for) the subject claims. Hence, in addition to the after-final amendment herein, the applicant has filed the RCE to allow for the reconsideration of the previously submitted arguments and revisions to support the allowance of the subject claims. Should the after-final amendment herein fail to persuade the Examiner to allow the subject claims, the applicant will seek to appeal such a decision for the reasons cited above.

With respect to the examiner's remark (3) in the Office Letter dated 28 January 2004, the applicant has made the grammatical changes to the claims as suggested by the examiner. However, the applicant does not agree with the examiner's objection to claims 68-74 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. It is not the dry mixture itself that is being cultivated in-situ; rather, it is the plants that comprise the plant fiber-containing material that are cultivated in-situ.

With respect to the examiner's remark (4) in the Office Letter dated 28 January 2004, applicant has amended claims 24-26 and 28-77 as suggested by the examiner to remove the rejection under 35 U.S.C. 112 as being "vague and Indefinite". With respect to the examiner's rejection of claims 33, 42, 53, 62 and 77 as failing to comply with the written description requirement, applicant has amended claim 33 to eliminate the phrase "and other fibrous cotton-containing materials produced by the cultivation or processing of cotton".

With respect to the examiner's remarks (5) and (6)in the Office Letter dated 28 January 2004, "claims 24, 29, 33, 36, 68, 72 and 74-76 remain rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pinckard et al..." As noted above, telephone conferences with held with the Examiner on 1 and 14 July 2003. The rejections on the basis of Pinckard et al were specifically discussed at length, after which the applicant understood that Examiner recognized and agreed that the composition of the subject claims and Pinckard et al. were inherently different. Accordingly, the basis for the allowance of the subject claims relative to Pinckard et al. were documented in the applicant's amendment B dated 24 July 2004. The applicant hereby reiterates the arguments made in Amendment B which were previously understood to be acceptable to the Examiners, to wit: the composition of the subject claims is fundamentally and patentably distinct from the prior art of Pinckard et al.

With respect to the examiner's remarks (7) and (8)in the Office Letter dated 28 January 2004, regarding the rejections of claims 24-26, 28, 30-31, 33, 37-40, 42, 44-48, 50-51, 53, 57-60, 72, 74, 66-70, 72, and 74-77 under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Clarke et al... applicant's arguments [that Clarke

et al is non-analogous art]...are not persuasive..." The applicant reiterates the arguments made in Amendment B dated 24 July 2003. The applicant also argues that the Examiner's example of "a dishwashing detergent" for cleaning oil off of birds is non-analogous art relative to the field of the present invention and that such a liquid composition is fundamentally different than the solid-chemical composition of the present invention—i.e., they're not even close.

With respect to the examiner's remarks (9) and (10) in the Office Letter dated 28 January 2004, regarding the Examiner's re-iteration of the obviousness-type double patenting claims rejections relative to U.S. patent no. 6,423,531, the applicant re-iterates the issues raised in Amendment B and requests that the Examiner reconsider these arguments. In the event that the Examiner maintains the current position, the applicant would consider filing a terminal disclaimer during the period of continued examination.

Conclusion

For all of the above reasons, applicant submits that the claims are now in proper form, and that the subject matter of the present invention is clearly defined and non-obvious relative to the prior art cited by the examiner. Therefore, applicant submits that this application is now in condition for allowance, which action he respectfully solicits. The applicant has also filed a request for continued examination (RCE) in view of the circumstances described above to allow for the reconsideration of the previously submitted arguments and revisions to support the allowance of the subject claims. Should the after-final amendment herein fail to persuade the Examiner to allow the subject claims, the applicant will seek to appeal such a decision for the reasons cited above.

Conditional Request for Constructive Assistance

Applicant has amended this application so as to define the present invention by claims that are proper and definite, and which define a subject matter that is novel and also unobvious. If, for any reason, this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. §2173.02 and §707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,



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Certificate of Facsimile Transmission: I certify that on the date below this document and referenced attachments, if any, have been transmitted to the examiner at the facsimile number provided by the examiner: (703) 872-9306.

28 April 2004


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